

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.13494 of 2004

Between:

Vithanala Yerraiah, S/o.Apparao, 29 years,
R/o.Jangareddigudem, West Godavari District.

...PETITIONER

AND

1. The Divisional Forest Officer, Eluru, West Godavari District.
2. The Forest Range Officer, Jangareddigudem, West Godavari District.
3. The Motor Vehicle Inspector, Jangareddigudem, West Godavari District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction and more particularly one in the nature of writ of Mandamus directing the 1st and 2nd respondents to release the Motor vehicle Jeep No.A.H.V.9774 pending enquiry under the provisions of section 44 of the A.P.Forest Act, 1967.

Counsel for the Petitioner: MR.V.S.N.SARMA

Counsel for the Respondents: GP FOR FORESTS

The Court made the following:

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ORDER:

The petitioner claims to be the owner of a motor vehicle (jeep) bearing No.AHV 9774. The said vehicle was inspected by the respondents on 22.07.2004 at 8 am when it was found allegedly transporting 10 pieces of teak timber (0.720 cubic meters) without any valid permit under the A.P.Forest Act, 1967 ('the Act' for brevity). Therefore, the vehicle was seized under Section 44 of the Act and enquiry was initiated. The petitioner contends that he has not committed any forest offence and that when his vehicle was proceeding from Inumur Village, Buttayagudem Mandal in West Godavari District, a person with teak, told the driver of the petitioner that such person had valid permit for the teak and accordingly he was permitted to travel in the jeep. The petitioner filed this Writ Petition challenging the seizure of the vehicle and for a direction to respondent Nos.1 and 2 to release the vehicle pending enquiry.

It is well settled that the provisions of the Act should be strictly complied with and ordinarily the seized forest produce, the vehicle etc., used in the commission of forest offence should not be released pending enquiry (See ***State of Karnataka v. K.Krishnan***). Further, when an offence is allegedly committed and the vehicles are seized, the power under Article 226 of the Constitution of India cannot be exercised for ordering release of the vehicle as held by the Division Bench of this Court in ***Dy.Commissioner (P & E) v. Shobalal***.

In view of the settled law, the petitioner cannot be given any relief. However, it shall be open to the petitioner to approach the respondents for release of the vehicle. As and when such application is made, the first respondent may consider the same keeping in view the principles laid down by the Supreme Court in ***State of Karnataka v. K.Krishnan*** (supra), complete the enquiry and pass appropriate orders within a period of eight (8) weeks from the date of receipt of a copy of this order.

The Writ Petition, with the above observations, is dismissed.

(V.V.S.RAO, J)

2nd August 2004

RRB

Copies to:

1. The Divisional Forest Officer, Eluru, West Godavari District.
2. The Forest Range Officer, Jangareddigudem, West Godavari District.
3. The Motor Vehicle Inspector, Jangareddigudem, West Godavari District.
4. Two CCs to G.P. for Forests, High Court Buildings, Hyderabad (OUT).
5. Two CD copies.